

Legal
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Mr. Roger W. Jones
Assistant Director
for Legislative Reference
Bureau of the Budget
Washington 25, D.C.

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Dear Mr. Jones:

This is in reply to your letter of 22 August 1955 forwarding for comment by this Agency a Civil Service Commission draft bill, "To provide a measure of coordination between the Civil Service Retirement Act and the Social Security Act, and for other purposes".

This Agency has no objection to the proposed legislation. There are several comments below relating to the bill in general and one related to a particular problem of this Agency which we feel will have to be resolved if our employees are to be covered by the legislation.

The Director of Central Intelligence is responsible for protecting intelligence sources and methods from unauthorized disclosure and in order to carry out this responsibility he has been exempted by Section 7 of the Central Intelligence Agency Act of 1949 from the provisions of any law requiring the publication or disclosure of names, titles, salaries or numbers of personnel employed by the Agency. This Agency will not be able to comply with the reporting requirements of the Social Security system and, therefore, it may be necessary that legislation authorize the Agency, the Bureau of Old Age and Survivors' Insurance, and the Bureau of Internal Revenue, as appropriate, to set up procedures for reporting under the Social Security system which will not conflict with the Director's responsibility to protect intelligence sources and methods.

The proposed legislation continues the inclusion of non-resident aliens who are permanent employees of the United States Government as provided in the present Civil Service Retirement Act. However, there would appear to be a basic inconsistency in the proposed legislation in that it contemplates a retirement annuity at age 65 consisting partly of payments under the Civil Service Retirement system

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and partly under the Social Security system, and the Social Security system excludes from covered employment, employment outside the United States except by a citizen of the United States. As a result, non-citizens employed abroad would continue to receive full Civil Service retirement benefits throughout retirement although they had not contributed fully to the fund. Of greater magnitude is the problem of non-resident aliens who are not considered permanent employees although their employment may be permanent in fact. Such employees have no United States retirement coverage. In many foreign countries citizens or residents may be protected under local retirement programs and in some cases such coverage is compulsory. As the proposed bill now stands some alien non-residents would be covered by both the United States Civil Service Retirement system and the system of their own country, while others would have no protection under a United States retirement system. It is questionable whether or not such a distinction is desirable. The answer may lie in legislation applicable to non-resident alien employees in general.

We call to your attention the seventh line of section 3 (b) of the proposed bill which is worded in part as follows: "... resulting from an explosion of an instrument of war" It would appear that this provision is intended to correspond to the provisions of 5 U.S.C., section 59 (a), as amended. A 1954 amendment to that Act removed the requirement that the instrumentality of war must have exploded before the disabled officer would be exempt from certain dual compensation limitations.

Section 9 (b) of the proposed bill provides that the Civil Service annuity of a retired employee who qualifies as fully insured under Title II of the Social Security Act solely on the basis of quarters of coverage as a Government employee shall be reduced when he attains age 65. The wording of this provision appears to allow an annuitant to receive a full annuity after reaching age 65 if he has as much as one quarter of coverage under the Social Security Act as a non-Government employee. It may have been intended in drafting this provision to provide a reduced annuity at age 65 for all retired employees except those who would have been fully insured without benefit of coverage while in federal employment. The present wording can be interpreted in more than one way.

Section 18 of the proposed bill shows an intention that persons retiring under this Act shall not have their income decreased from what it would have been prior to inclusion of Social Security coverage. However, because the Social Security Act requires reduction or

elimination of benefits when a beneficiary works for wages or salary, the net effect of the proposed bill may be to reduce the income of such annuitants. This is because the Civil Service annuity is decreased at age 65 and the difference plus extra benefits is made up through Social Security payments. However, since under the present law a Civil Service annuitant is not restricted as to his outside income the retired employee who elects to earn income will be in a less favorable position under the proposed bill than he is under the present law.

Sincerely yours,

* Walter L. Pforzheimer
Legislative Counsel

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